

Serial No. 09/931,037

Reply to Office Action of March 18, 2005

REMARKS/ARGUMENTS

Prior to this Amendment, claims 1-17, 23, and 24 were pending in the application. No claims are amended with this response, but a complete listing of claims is provided for the convenience of the Examiner.

Claims 1-17, 23, and 24 remain for consideration by the Examiner.

Specification Objections

The specification was objected to because an element 210 referred to in paragraph [0016] was not shown in Figure 1. This paragraph is amended to correspond with the figures.

Claim Rejections Under 35 U.S.C. §102

In the Office Action, claims 1-23 were rejected under 35 U.S.C. §102(b) as being anticipated by the "BuyerXpert 4.1 SP3 Upgrade Guide (hereinafter BuyerXpert). This rejection is traversed based on the following remarks.

As noted in Applicants' last response, BuyerXpert is not a proper reference under 35 U.S.C. §102(b). The Office Action cites a publication that was said to be published on June 1999 (i.e., "Industry Slices Up Procurement Pie) for providing a 1999 publication date for BuyerXpert. The 1999 publication mentions on page 2 a "BuyerXpert 3.0" product. In contrast, as shown on page 1, BuyerXpert is a document describing "BuyerXpert **4.1 SP3**" (emphasis added), which is clearly a different product. Hence, the publication date for BuyerXpert is not by inference the same date as the 1999 publication. Applicants did not find a publication date on BuyerXpert, but a last modified date of October 8, 2001 was provided (see, for example, pages 3 and 25), which is later than Applicants' filing date. Because BuyerXpert is not a proper reference under 35 U.S.C. §102(b), the rejection of claims 1-23 based on BuyerXpert is improper and should be withdrawn.

In the Examiner's Response, the Examiner states that he is treating the 3.0 and 4.1 SP3 version of the BuyerXpert product as "the same product" because they are both "product of 'BuyerXpert.'" The Examiner goes on to say he interprets the

Serial No. 09/931,037

Reply to Office Action of March 18, 2005

changes to from the 3.0 to 4.1 SP3 version to be "just a minor improvement/enhancement and asks Applicants to provide evidence that the cited features from the 4.1 SP3 version "can not be found in" the prior version.

Applicants again assert that the Examiner cannot cite the BuyerXpert 4.1 SP3 Upgrade Guide as a reference to this application based on a publication or release date of the BuyerXpert 3.0 product. As the Examiner is aware, many if not all inventions are improvements over prior products and inventions, and often, a patent application is filed based on each release of a product with the expectation that prior releases of the product will be a prior art reference but not that the new release or product itself will be cited in rejecting the invention (i.e., if this were the case, there would never be an improvement-type patent allowed).

The test for allowance under 35 U.S.C. §102 is not whether something is a minor improvement or enhancement but instead, is whether each and every element of the claimed invention can be found in a cited reference. Instead of meeting this burden, the Examiner is unfairly placing the burden on Applicants to prove that their claimed features (or those cited by the Examiner), which may be found in the BuyerXpert 4.1 SP3 version, are not present in the BuyerXpert 3.0 version. The patent laws and rules do not place such a burden on patent applicants but instead required that patent examiners provide a single reference that teaches each element of a claim. The Examiner has not stated a proper case for using the BuyerXpert 4.1 SP3 Upgrade Guide as a reference against claim 1, and hence, the rejection of claim 1 must be withdrawn.

The Applicants, however, wish to further prosecution of their application. With this in mind, Applicants have enclosed select pages highlighting some differences between BuyerXpert 3.0 and BuyerXpert 4.0. These pages are useful for showing that the later versions of BuyerXpert are NOT the same product but is not intended to "prove" a negative argument as requested by the Examiner (i.e., Applicants are not taking on the task of proving what did not exist in BuyerXpert 3.0). Applicants request that the Examiner consider these enclosed pages and remove the BuyerXpert 4.1 SP3 Upgrade Guide as a reference.

Serial No. 09/931,037

Reply to Office Action of March 18, 2005

Additionally, in the Office Action, claims 1-3 and 12-17 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,628,314 ("Hoyle"). This rejection is traversed based on the amendments to the claims and the following remarks.

Claim 1 calls for providing a set of modules in a user interface and then receiving user input indicating a selection of one of the modules for upgrade and one of the components associated with the selected module for upgrade. User input is also received indicating a location of the module and a destination for the upgraded module (or portions of the modules). In this manner, the method of claim 1 is able to address the issues with previous systems that failed to allow "operators of e-commerce sites...to upgrade particular utilities...[as] there are no mechanisms by which an operator can define which upgrade utilities are needed and which modules these upgrades are intended for."

With regard to claim 1, the Office Action cites Hoyle's Figures 7 and 13 for teaching each element of claim 1. However, neither figure discusses or suggests that modules are provided on a user interface, that a user input is received selecting a module and at least one component associated with the module for upgrade, and then, user input is received indicating a source for the module.

In the Examiner's Response, the Examiner stated that "Hoyle teaches providing modules in a user interface (E.g. see FIG.6 GUI (Graphic User Interface) Module and associated text)." However, the GUI 52 fails to teach all of the elements of claim 1 including that modules are provided on a user interface, **that a user input is received selecting a module and at least one component associated with the module for upgrade, and then, user input is received indicating a source for the module**. The Examiner does not address the argument that these features are not present in Hoyle but merely again argued that element 52 of Hoyle is a GUI module that includes interactive components 90 – 104. However, there is no teaching that these provide the functionality required in claim 1.

Serial No. 09/931,037
Reply to Office Action of March 18, 2005

Instead, as discussed in the last response, with reference to col. 13, line 45 to col. 14, line 17 and col. 20, lines 19-47, Hoyle discusses a builder component 64 that acts automatically to build a blueprint of a system indicating the system's components and which version of the component is on the system, to compare the existing blueprint with an "update" blueprint, and then based on that comparison to automatically upgrade all components that are not the newest version. This is a very different process than called for in the method of claim 1, as the method of claim 1 involves user input being provided to select modules and components for upgrade. Because Hoyle fails to teach providing modules in a user interface and receiving the various user input called for in claim 1, Hoyle does not support a rejection of claim 1, and the rejection should be withdrawn.

Claims 2-7 and 12-17 depend from claim 1 and are believed allowable as depending from an allowable base claim.

Independent claim 23 is directed to a computer program product with limitations similar to claim 1 but in differing form. Hence, the reasons provided for allowing claim 1 over Hoyle are believed to be applicable to claim 23, and Applicants request that the rejection of claim 23 be withdrawn.

Independent claim 24 is directed to a method with limitations similar to claim 1, and hence, the reasons for allowing claim 1 over Hoyle are believed applicable to claim 24. Further, the Examiner cites block 250 of Figure 13 and block 264 of Figure 14 in Hoyle for teaching "retrieving an upgrade utility for each of the selected functional components for each of the modules in the selected subset." However, block 250 is described in col. 20, lines 44-47 as include the "builder module and other upgraded components are downloaded and installed." There is no teaching of retrieving an upgrade utility "for each of the selected functional components" or that such upgrade utilities should be chosen "for each of the modules in the selected subset." Turning to block 264, col. 20, beginning at line 66 states that the builder module downloads and installs updated components, but Hoyle does not teach the upgrade utilities are selected for each of a number of selected function

Serial No. 09/931,037
Reply to Office Action of March 18, 2005

components for each module in a subset of modules selected by a user. For this additional reason, Hoyle does not anticipate the method of claim 24.

Claim Rejections Under 35 U.S.C. §103

Further, in the Office Action, claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hoyle in view of U.S. Pat. No. 6,697,784 ("Bacon"). Claim 4 depends from claim 1 and is believed allowable as depending from an allowable base claim. Further, Bacon fails to overcome the deficiencies in Hoyle noted with reference to claim 1. As a result, the combination of Hoyle and Bacon fails to support a rejection of claim 4.

The Office Action rejected claim 5 as being unpatentable over Hoyle in view of U.S. Pat. No. 6,779,082 ("Burger"). Claim 5 depends from claim 1 and is believed allowable as depending from an allowable base claim. Also, Burger does not overcome the deficiencies discussed above with reference to claim 1. Therefore, claim 5 is allowable over the combined teachings of Hoyle and Burger.

Yet further, the Office Action rejected claim 6 as being unpatentable over Hoyle in view of U.S. Pub. No. 2004/0148232 ("Fushimi"). Claim 6 depends from claim 1 and is believed allowable for the reasons for allowing claim 1. Further, Fushimi does not overcome the lack of teaching in Hoyle discussed with reference to claim 1.

The Office Action also rejected claim 7 as being unpatentable over Hoyle in view of U.S. Pat. No. 5,630,069 ("Flores"). Claim 7 is believed allowable as depending from an allowable base claim, i.e., claim 1. Flores does not overcome the deficiencies of Hoyle with respect to claim 1.

Further, the Office Action rejected claim 8 as being unpatentable over Hoyle in view of U.S. Pub. No. 2002/0023001 ("McFarlin"). Claim 8 depends from claim 1 and is believed allowable as depending from an allowable base claim.

The Office Action rejected claim 9 as being unpatentable over Hoyle in view of U.S. Pub. No. 2004/0098446 ("Styles"). Claim 9 depends from claim 1 and is believed allowable as depending from an allowable base claim. Further, Styles

Serial No. 09/931,037
Reply to Office Action of March 18, 2005

does not provide the teaching missing from Hoyle, which was discussed with reference to claim 1.

Yet further, the Office Action rejected claim 10 as being unpatentable over Hoyle in view of U.S. Pat. No. 6,681,229 ("Cason") This rejection is traversed because claim 10 depends from claim 1, which is allowable over Hoyle. Additionally, Cason does not overcome the deficiencies in Hoyle discussed above with reference to claim 1.

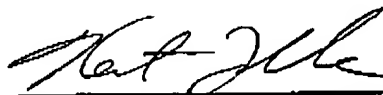
Finally, the Office Action rejected claim 11 as being unpatentable over Hoyle in view of U.S. Pub. No. 2003/0167401 ("Murren") Claim 11 depends from claim 1 and is, therefore, believed allowable as depending from an allowable base claim. Additionally, Murren fails to overcome the deficiencies in Hoyle discussed above with reference to claim 1.

Conclusions

In view of all of the above, Applicants request that a timely Notice of Allowance be issued in this case.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



April 21, 2005

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Attachments: BuyerXpert 3.0 and BuyerXpert 4.1 SP3 comparison documents (4 pages)

Upgrading to BuyerXpert 4.0 provides additional benefits

Upgrading to BuyerXpert 4.0 provides additional benefits

There are many enhancements to BuyerXpert 4.0 to better serve the needs of our customers. This section outlines the improvements for customers who are familiar with BuyerXpert 3.x. The key enhancements include:

- **New Java and Netscape Application Server-based architecture**—leverages open standards for increased performance and stability and makes BuyerXpert fully extensible to support customization using standard tools. Key internal business objects and APIs are exposed to ease your customization efforts.
- **Use of Directory Server for membership and catalog data**—increases data access speed and provides an opportunity to leverage data across multiple applications.
- **Expanded catalog functionality**—provides additional features such as improved text search capability and support for multiple catalog views.
- **Increased internationalization capabilities**—supports single-byte and multi-byte character sets for localization into any European or Asian language to expand the opportunities to use BuyerXpert worldwide.
- **API to leverage existing accounting code data**—connects to an existing enterprise application with an application programming interface (API) to obtain and validate accounting code information.
- **Multi-organization support**—allows you to use a single instance of BuyerXpert to create multiple organizations or divisions with unique workflow, business processes, accounting codes, currencies, user interfaces, and locales.
- **Simplified administrative application**—provides multiple ways to access administrative information so both technical and non-technical business constituencies can view and configure data in an intuitive Web page-style interface.
- **Sophisticated policies to control system behavior**—provide a method to replicate contractual agreements with customers. These policies extend the capabilities provided by business rules in BuyerXpert 3.x. They are configured in the graphical administrative interface that requires no programming skills.
- **Standard Mission Control installer**—leverages functionality familiar to IT professionals from their installations of other iPlanet products.
- **Graphic import utility**—provides an easy-to-use method for batch-loading large quantities of data.
- **Market-driven feature enhancements and new features**—provide more complete out-of-the box functionality based on the needs of customers. These include:
 - Ability to cancel orders after they have been submitted.
 - Support for timecard creation, approval, and submission.
 - Ability for authorized users to add ad-hoc approvers and resequence approvers during the approval process.
 - Support for leveraging a single instance of ECXpert for simultaneous use by BuyerXpert and any other CommerceXpert application such as SellerXpert.
 - Support for more recent versions of Solaris, Oracle, iPlanet, and other third-party software components of BuyerXpert.

For a more complete description of BuyerXpert 4.0 enhancements, refer to the technical white paper *Building the Future of Electronic Commerce for Business-to-Business Procurement with BuyerXpert 4.0*.

Upgrade Kit delivers everything you need to get started

Upgrade Kit delivers everything you need to get started

As part of the BuyerXpert Maintenance Subscription plan, you will receive the BuyerXpert 4.0 upgrade kit automatically. It includes:

- **BuyerXpert 4.0 Upgrade Utility to automate tedious tasks:**
 - Determines basic system parameters of your BuyerXpert v3.x implementation.
 - Lets you specify the information to be migrated: membership, catalog, order management system data, workflow data, accounting codes, and/or dynamic order data. Table 1 on page 6 outlines the data that can be upgraded from BuyerXpert 3.x to BuyerXpert 4.0 using the Upgrade Utility.
 - Runs automated scripts to convert data from BuyerXpert 3.x into a format usable by BuyerXpert 4.0.
 - Provides status information during data upgrade as well as assistance with error recovery and cancellation of the upgrade process.
- **BuyerXpert 4.0 Customization Aides to simplify site-specific modifications:**
 - Checklist to assist in scoping all modifications to be upgraded.
 - The BuyerXpert *Product Designer's Handbook* describes specific examples of upgrading customizations from BuyerXpert 3.x to BuyerXpert 4.0.
 - Software copy of default BuyerXpert 3.x files to compare against your customized files.
- **Documentation to assist you throughout the upgrade process:**
 - The technical white paper *Building the Future of Electronic Commerce for Business-to-Business Procurement with BuyerXpert 4.0* introducing the enhanced BuyerXpert 4.0 features and architecture and explaining its advantages.
 - Documentation to guide you through the entire upgrade process—from the planning stages, though using the BuyerXpert 4.0 Upgrade Utility and Customization Aides, to final verification of your site.
- **Video introduction to the upgrade process:**
 - Provides an overview of the entire upgrade process.
 - Demonstrates the Upgrade Utility.
 - Summarizes the information provided to Technical Support during the BuyerXpert engineering development technical transfer of information.

Upgrade Kit delivers everything you need to get started

TABLE 1. Data automatically upgraded with the BuyerXpert Upgrade Utility

Type of information	Information includes	3.x format	4.0 format	Upgrade process
Membership data	Names, addresses, permissions, organizations, user groups, relationships between users, user preferences for password and display currency.	Oracle data-base tables	Directory Server directories	Upgraded automatically with the Upgrade Utility.
Business rules and contract related behaviors	How to evaluate and determine behavior for: accounting codes, access permissions, order transfer to legacy applications, inventory, approval limits, purchase order and requisition formats, payment, pricing, products, security, tax, currency and currency conversion, shipping, and workflow.	Business rules in Oracle data-base tables	Policies in Oracle database tables	Business rule/policy configurations are updated automatically with the data to which they correspond to ensure correct system behavior. For example, rules associated with catalogs are upgraded to policies as part of the catalog data upgrade. Optionally, you can manually refine the policies to take advantage of the additional features of BuyerXpert 4.0 policies to tailor them more specifically to your needs.
Catalog organizational schema and data	Catalog organizational schema structure and product content.	Cadis catalogs	Directory Server directories	Upgraded automatically with the Upgrade Utility. For particularly complex catalogs, it may be necessary to perform some additional manual modifications to successfully upgrade the catalog.
Order management system data	Product availability, prices, price lists, price adjustments, units, currencies, unit and currency conversions, taxes, credit status, shipping carriers, shipping methods, shipping charges, and payment methods.	Oracle data-base tables	Oracle data-base tables	Upgraded automatically with the Upgrade Utility. If you are using one of a few features that are not commonly used (for example, a price adjustment based on the order adjusted net total), you may need to upgrade information manually or recreate the information in BuyerXpert 4.0.
Dynamic orders and order history	All details about templates, submitted, shipped, partially shipped, received, and partially received orders.	Oracle data-base tables	Oracle data-base tables	Upgraded automatically by the Upgrade Utility. Guidelines for in progress and pending submission requisitions are provided.
Workflow approval data	Approval limits, pre-conditions and corresponding actions.	Oracle data-base tables	Oracle data-base tables	Upgraded automatically with the Upgrade Utility. Advanced workflow customizations are upgraded manually.
Accounting and commodity code data	Values and descriptions that can be assigned to items in an order requisition.	Oracle data-base tables	Oracle data-base tables	Upgraded automatically with the Upgrade Utility.
Actualize reports	Custom Actualize reports to display key information about BuyerXpert customers and transactions.	Actualize reports	Actualize reports	Default BuyerXpert reports upgraded automatically with the Upgrade Utility. If you modify the BuyerXpert report templates or create your own, they are upgraded manually as part of the customization upgrade.

Customization Aides assist with site-specific requirements

TABLE 3. Customized BuyerXpert Data to be Upgraded

Type of Information	Information Includes	3.x format	4.0 format	Upgrade process	Suggestions/Guidelines
Standard Customizations					
Customization of configuration files	Page colors, fonts, system settings	BuyerXpert 3.x configuration files (actra.conf, settings.conf, system.ini, etc.)	BuyerXpert 4.0 configuration files	Enter basic parameters during BuyerXpert 4.0 installation. Manually modify configuration files with additional information as needed.	Minimize the changes made to these files. Document and track changes to the file. Compare your file to the "clean" configuration file provided in the Upgrade Kit to verify the extent of customizations.
Catalog and front-end application branding	Images	GIF and JPEG images	GIF and JPEG images	Apply custom colors, images, and fonts to Java Server Pages (JSP).	Modify graphics and colors as needed. Some additional images required for additional features.
Catalog and front-end application customization	Customization of UI elements	Standard HTML with CommerceXpert PCL tags, JavaScript	JSP, Java Servlets, and automatically generated HTML	Recreate any JavaScript customizations with JSP and Java Servlets.	Minimize JavaScript customizations. Create BuyerXpert 4.0-compatible Java Servlet functions in parallel to BuyerXpert 3.x-compatible JavaScript customizations.
ECXpert data	Maps for communications in trading partnerships between BuyerXpert and suppliers	Mapping between BuyerXpert ADIF format and EDI or other formats used by your suppliers	Mapping between BuyerXpert XML format and EDI, or other formats used by your suppliers	Manually modify ECXpert trading partnerships to use new mapping as required.	Create the minimum number of trading partnerships and maps required to support your implementation.
Custom Activate reports	Modifications to BuyerXpert reports or new report templates	Activate report	Activate report	Recreate your changes in new Activate reports based on the new BuyerXpert 4.0 schema.	Document any modifications that you make to existing reports and any new report templates that you create.
Pop-ups	Forms to fill in additional information about particular items.	Standard HTML with CommerceXpert PCL tags, JavaScript	JSP, Java Servlets, and automatically generated HTML	Use the utility provided with BuyerXpert 4.0 to create JSP for simple pop-ups; rewrite complex pop-ups as JSP.	Document the pop-ups that you create and all the items with which they are associated.
Advanced Customizations					
Advanced customization	Modifications to flow and behavior of BuyerXpert	Depends on your site. Could include C++ code, CORBA Services, Server-side JavaScript	Server-side Java, Servlets, Java Objects and EJBs, Native Java Services, Application Server extensions	Needs to be determined on a case-by-case basis.	Minimize changes and document completely.
Advanced Workflow customizations	Site-specific modifications to workflow approval process.	Process definition in .process file and types.jslib file, Javascript	Workflow process definitions.	Needs to be determined on a case-by-case basis.	Minimize changes and document completely.

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